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Docket No.: 5000-0166PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jordi TORMO I BLASCO et al.

Application No.: 10/577,401

Confirmation No.: 1406

Filed: April 27, 2006

Art Unit: 1614

For: FUNGICIDAL MIXTURES FOR
CONTROLLING RICE PATHOGENS

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on April 27, 2006, attached hereto is an English translation of the International Preliminary Report of Patentability (Form PCT/IB/338 and 373) and of the Written Opinion of the International Searching Authority (Form PCT/ISA/237) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any

Application No.: 10/577,401

Docket No.: 5000-0166PUS1

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: October 25, 2006

Respectfully submitted,

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Attachment(s)

PATENT COOPERATION TREATY

PCT/EP2004/012513

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

From the INTERNATIONAL BUREAU

To:

Global Intellectual Property

06. Sep. 2006

BASF Aktiengesellschaft
67056 Ludwigshafen
ALLEMAGNE

EC - Perez
ID - Noelaued
NS - Roldwin
US - Gion
AR - P. Veylan
OAPI - Hahn

1. AST
2. REF

Date of mailing (day/month/year)

31 August 2006 (31.08.2006)

Applicant's or agent's file reference
0000055064

IMPORTANT NOTIFICATION

International application No.
PCT/EP2004/012513

International filing date (day/month/year)
05 November 2004 (05.11.2004)

Applicant

BASF Aktiengesellschaft et al

EL: Phase beendet 11.04.2006

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 0000055064	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2004/012513	International filing date (<i>day/month/year</i>) 05 November 2004 (05.11.2004)	Priority date (<i>day/month/year</i>) 10 November 2003 (10.11.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant BASF Aktiengesellschaft		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 22 August 2006 (22.08.2006) Authorized officer <div style="text-align: center; font-weight: bold;">Ellen Moyse</div> e-mail: pt05@wipo.int
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

TRANSLATION

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing **See form PCT/ISA/210**
(day/month/year)

Applicant's or agent's file reference
0000055064

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/012513

International filing date (day/month/year)
05.11.2004

Priority date (day/month/year)
10.11.2003

International Patent Classification (IPC) or both national classification and IPC
A01N43/90

Applicant
BASF Aktiengesellschaft

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012513

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012513

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/012513

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-10	YES
	Claims		NO
Inventive step (IS)	Claims	1-10	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations:

The documents cited are numbered in the same order as they appear in the international search report.

The present invention relates to a synergistic fungicide composition containing a triazole-pyrimidine derivative (I) and propiconazole (II).

D1 describes similar compositions, compound (I) being substituted, however, by an analog. D2 describes compound (I) in combination with analogs thereof and lists (II) as a possible compound partner, while the claimed combination *per se* is not explicitly disclosed and no clear teaching exists in connection therewith. The present application therefore satisfies the criterion in PCT Article 33(2) because the subject matter of claims 1-10 is novel in relation to the prior art as defined in the Regulations (PCT Rule 64.1 to 64.3).

The present application contains comparative tests which involve precisely those compositions previously published in D1. These tests show unequivocally that the claimed choice makes possible not only a synergistic effect, but also an improved synergistic effect compared to the most

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012513

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

similar compositions to be taken from D1. This improvement was not to be expected. The present application therefore satisfies the criterion in PCT Article 33(3) because the subject matter of claims 1-10 involves an inventive step (PCT Rule 65.1 to 65.2).

The present application satisfies the criterion in PCT Article 33(4) because the subject matter of claims 1-10 is regarded as industrially applicable.